

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Lake and Peninsula School District	)	File Nos. SLD-214805
King Salmon, Alaska	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	

**ORDER**

**Adopted: May 14, 2004**

**Released: May 18, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by the Lake and Peninsula School District (LPSD), King Salmon, Alaska.<sup>1</sup> LPSD requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) reducing funding requests for 15 Funding Request Numbers (FRNs) because they were not submitted in a timely manner.<sup>2</sup> For the reasons set forth below, we affirm SLD's decision and deny LPSD's Request for Review.

2. On August 6, 2001, LPSD submitted an FCC Form 486 that included 23 Funding Request Numbers (FRNs) reflected in three Block 3 pages.<sup>3</sup> On October 18, 2001, after making several attempts to contact SLD, LPSD learned that its August Form 486 had been posted to Funding Year 2000 because LPSD had entered Block 1, item 3, incorrectly as 07/01/2000-06/30/2002.<sup>4</sup> LPSD resubmitted FCC Form 486 on October 18, 2001.<sup>5</sup> Shortly thereafter, LPSD received from SLD its August Form 486 with a Form 486 Return Letter stating that it was unable

<sup>1</sup> Letter from Dennis Niedermeyer, Lake and Peninsula School District, to Federal Communications Commission, filed September 16, 2002 (Request for Review).

<sup>2</sup> *Id.*

<sup>3</sup> FCC Form 486, Lake and Peninsula School District, filed August 6, 2001 (August Form 486).

<sup>4</sup> Request for Review at 2.

<sup>5</sup> *Id.*; FCC Form 486, Lake and Peninsula School District, filed October 22, 2001 (October Form 486).

to process the form as filed.<sup>6</sup> After LSPD filed the October Form 486, it learned that 15 FRNs were not data entered in the application.<sup>7</sup> LPSD believes that the October Form 486 was complete, and that SLD may have misplaced two of the three Block 3 pages.<sup>8</sup> On December 19, 2001, LPSD submitted a third FCC Form 486, which included the FRNs that SLD had not data entered.<sup>9</sup> On January 9, 2002, SLD issued a Form 486 Notification Letter stating that although the Form 486 was accepted, SLD was adjusting the funding awarded because of failure to meet the Children's Internet Protection Act (CIPA) deadline.<sup>10</sup> Specifically, the notification letter reduced LSPD's funding commitment for the FRNs included in the December Form 486 to provide discounts only for service provided on or after the FCC Form 486 filing date of December 19, 2001, instead of the requested funding year start date of July 1, 2001.<sup>11</sup> LPSD filed the instant Request for Review, seeking full funding.<sup>12</sup>

3. First, LSPD asserts that SLD should have processed the original FCC Form 486 that was filed on August 1, 2001.<sup>13</sup> LPSD states that it did inadvertently fail to note a typo in Block 3 defining the funding year as "7/1/2000-6/30/2002." Other items in the form, however, indicated that the funding request was for Funding Year 2001. In addition, LPSD contacted SLD and reviewed the information on the form. As a result, LPSD contends that SLD should have processed the original Form 486 because it had sufficient information and knowledge to do so.<sup>14</sup> Based on the precedent for minimum processing standards set in *Naperville*, we are not persuaded by this argument. In *Naperville*, the Commission determined that SLD should not have returned an application without consideration for failure to meet SLD's minimum processing standards where "(1) the request for information was a first-time information requirement on a revised form, thereby possibly leading to confusion on the part of the applicants; (2) the omitted information could be easily discerned by SLD through examination of other information included in the application; and (3) the application is otherwise substantially complete."<sup>15</sup> We conclude that LPSD's request does not meet the standards articulated in

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<sup>6</sup> Request for Review at 2; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dennis Niedermeyer, Lake and Peninsula School District, dated October 19, 2001.

<sup>7</sup> Request for Review at 2.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> FCC Form 486, Lake and Peninsula School District, filed December 19, 2001 (December Form 486).

<sup>10</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dennis Niedermeyer, Lake and Peninsula School District, dated January 16, 2002.

<sup>11</sup> *Id.*

<sup>12</sup> *See* Request for Review.

<sup>13</sup> Request for Review at 2-3.

<sup>14</sup> *Id.*

<sup>15</sup> *Request for Review by Naperville Community Unit School District 203, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-203343, CC Dockets No. 96-45 and 97-21, Order, 16 FCC Rcd 5032, para. 16 (2001) (*Naperville*).

*Naperville*. The Block 3 information that was incorrectly submitted was not a new information request.<sup>16</sup> Thus, the first requirement of *Naperville* is not satisfied.

4. Second, LPSD requests that SLD process FCC Form 486 in its entirety as of the October 18, 2001 date of submission.<sup>17</sup> LPSD attests that the October Form 486 was complete and contends that SLD lost two of the three Block 3 pages submitted. Although LPSD has included a copy of the form, including all three Block 3 pages, in its Request for Review, we find that it has failed to provide persuasive evidence that the pages were filed in the October Form 486 submission.<sup>18</sup> The record shows that SLD received and processed only one Block 3 page in the FCC Form 486 dated October 18, 2001.

5. Third, LPSD requests a waiver of the October 28, 2001, deadline. Although the Commission has authority to waive regulatory requirements, it does not have authority to waive a requirement imposed by statute.<sup>19</sup> The October 28, 2001 deadline for schools receiving Internet access and internal connections discounts to submit their CIPA certifications in Funding Year 2001 was set by statute.<sup>20</sup> Because LPSD was receiving discounts on Internet access, and was therefore subject to the October 28, 2001 deadline imposed by the CIPA statute, we are without authority to waive that deadline in this case.<sup>21</sup>

6. Finally, LPSD argues that the CIPA certification provided in the August or October Forms 486 should apply to the FRNs included in the December Form 486.<sup>22</sup> Alternatively, LPSD requests that we adjust the service start date to August 21, 2001, 120 days prior to the December Form 486 filing.<sup>23</sup> The Bureau has previously addressed this issue in *Craig County* and determined that certification of compliance with CIPA is required for each

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<sup>16</sup> Compare Universal Service for Schools and Libraries, Receipt of Service Confirmation Form, OMB 3060-0806 Funding Year 2000 Form 486 with Funding Year 2001 Form 486 (April 2000).

<sup>17</sup> Request for Review at 3.

<sup>18</sup> See Request for Review, Attachment 1.

<sup>19</sup> Request for Review at 3-4; see *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order, 15 FCC Rcd 7170, para. 13 (1999); see also *Chrysler v. Brown*, 441 U.S. 281, 302 (1979) (“the exercise of quasi-legislative authority by governmental departments and agencies must be rooted in a grant of such power by the Congress and subject to the limitations which that body imposes.”)

<sup>20</sup> See 47 U.S.C. § 254(h)(5)(E)(i)(I), (h)(6)(E)(i)(I) requiring that CIPA certifications be made within 120 days of the start of the first Funding Year after the effective date of the statute. See *Federal-State Joint Board on Universal Service, Children’s Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, paras. 10-14 (2001).

<sup>21</sup> See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Dennis Niedermeyer, Lake and Peninsula School District, dated July 23, 2001. See *Request for Review by East Carroll Parish School Board, Federal-State Joint Board on Universal Service Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 24591 (Wireline Comp. Bur. 2002).

<sup>22</sup> See Request for Review at 4.

<sup>23</sup> *Id.*

Funding Request Number (FRN) for Internet access or internal connections submitted.<sup>24</sup> The Commission also stated that an applicant who fails to meet the October 28, 2001 deadline for Funding Year 2001 discounts could obtain discounts for services received on or after the date that its FCC Form 486 was postmarked.<sup>25</sup> Consistent with our precedent in *Craig County*, we affirm SLD's decision and deny LPSD's Request for Review.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the request filed by Lake and Peninsula School District, King Salmon, Alaska, on September 16, 2002 is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Narda Jones  
Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau

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<sup>24</sup> *Request for Review by Craig County Public Schools*, File No. SLD-241515, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 1718 (Wireline Comp. Bur. 2003).

<sup>25</sup> *Id.*, 18 FCC Rcd at 1720.